

EXHIBIT D

Civil Action File No. 5:23-mc-00001-LGW-BWC
*Plaintiff Coalition for Good Governance's Reply to Defendant's Response to
Motion for Sanctions*

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

**COALITION FOR GOOD
GOVERNANCE and DONNA
CURLING,**

Plaintiffs,

v.

**COFFEE COUNTY BOARD OF
ELECTIONS AND REGISTRATION,**

Defendant.

**Civil Action No. 5:23-mc-00001-
LGW-BWC**

**In RE Subpoenas issued by the
United States District Court
For the Northern District of
Georgia, Atlanta Division,
Civil Action File No. 1:17-CV-
2989-AT**

DECLARATION OF MARILYN MARKS

MARILYN MARKS hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.
2. I am the Executive Director of Plaintiff Coalition for Good Governance (“CGG”), a plaintiff in this action and the underlying Curling v Raffensperger litigation.
3. As described in my declaration of February 20, 2024 (Doc. 60-4), I began seeking information from CCBOER concerning the January 2021

breaches of the Coffee County voting system in March 2022 by means of Open Records Requests (“ORR”) to conduct informal discovery prior to the *Curling* court’s June 2022 grant of an extension of discovery, permitting Plaintiffs to serve third party subpoenas related to the Coffee County breaches. I filed several ORRs concerning the breaches prior to June 2022 and after November 2022 when formal discovery was scheduled to close.

4. I was also directly involved on the litigation support team, in the discovery process in drafting and organizing the document subpoenas, responses served on Plaintiffs, and deposition topic content.
5. My primary contacts for the ORRs were Jennifer Herzog, CCBOER counsel, and Tracie Vickers, Coffee County Clerk and Open Records Officer.
6. The Exhibits included in the Reply Brief filed today are true and correct copies of documents CGG obtained either through ORR, the GBI image, or responses to document subpoenas.
7. Ms. Herzog represented to me on multiple occasions in ORR responses and on telephone calls that the requested security video had been

overwritten, despite my questions on why such video recordings supporting personnel terminations would not have been preserved.

8. The video recordings CGG originally requested initially on March 4, 2022 and repeatedly afterward, were provided to Plaintiffs on August 27, 2022 (exterior) and September 17, 2022 (interior). The daily video recordings cover the period November 15, 2020 to February 26, 2021.
9. It is my understanding from my discussion with GBI Special Agent Chris Baldwin that he persuaded Ms. Herzog to produce the security videos in August and September 2022, although CCBOER and counsel had previously denied the recordings' existence to Plaintiffs.
10. I am acquainted with Tabitha Paulk, who I understand is President of the Coffee County NAACP, who told me in 2023 that she had obtained some of the security video through an ORR, receiving it in April 2021 after a February or early March 2021 request.
11. I asked to see the contents of the security video she had obtained in 2021 to compare it to the recording produced by CCBOER to CGG. Ms. Paulk, along with Paschal McKibben (a video expert volunteer for CGG), and I joined a video call and Ms. Paulk showed us requested contents of the files and the file directory. Mr. McKibben and I

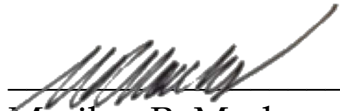
confirmed that the details appeared to match the details of the exterior entrance video recordings Plaintiffs had obtained in August 2022 through discovery.

12. Ms. Paulk emailed me copies of some of the exchanges she had with the County in attempting to obtain the requested video. The email contents were consistent with documents CGG obtained in 2023 ORR's regarding Ms. Paulk's request. (Reply Brief Exh. E and Exhibit 1 attached hereto) She assured me that she picked up the video recording promptly after being informed of its availability on April 15, 2021.
13. I reviewed the security video recording of the interior Elections Office recorded on February 25, 2021 when Ms. Hampton returned to the office from her meeting with the CCBOER, when she was asked to resign. She was accompanied by two officials, reportedly for the purpose of monitoring her departure activities.
14. According to the security video, she entered her private office from the main office at approximately 4:06 PM. The officials who accompanied her to the main office kept their distance in the outer office, at a

considerable distance from her private office, and generally did not appear to monitor her activities before she left the building.

15. CGG's expert Kevin Skoglund reported that documents were "deleted" files on February 25, 2021 (Doc. 60-2 ¶15). At my request, Mr. Skoglund recently located Eric Chaney draft affidavit (Exh. N-3) on the GBI image in the "deleted" files, and reported to me that it was "deleted" at 4:07 PM on February 25, 2021. This would have been moments after the video record shows that Ms. Hampton returned to her office after meeting with Mr. Chaney and other members of the CCBOER.

Executed on this Date, April 12, 2024.



Marilyn R. Marks

Exhibit D
Declaration of Marilyn Marks

Exhibit D-1

From: Tabitha Paulk <cjstowing@windstream.net>
Date: April 15, 2021 at 1:43:33 PM EDT
To: "Porter, Princess" <Princess.Porter@coffeecounty-ga.gov>
Subject: Re: Open records

Thanks

Sent from my iPhone

On Apr 15, 2021, at 11:09 AM, Porter, Princess <Princess.Porter@coffeecounty-ga.gov> wrote:

Our IT representative is working on this. Tracie is going to email you with an invoice and the date the records will be available.

From: Tabitha Paulk <cjstowing@windstream.net>
Sent: Thursday, April 15, 2021 7:22 AM
To: Porter, Princess <Princess.Porter@coffeecounty-ga.gov>
Subject: Re: Open records

Good morning,

Any update on video for open records?

Sent from my iPhone

On Mar 19, 2021, at 8:33 PM, Tabitha Paulk <cjstowing@windstream.net> wrote:

Thanks

Sent from my iPhone

On Mar 19, 2021, at 5:09 PM, Porter, Princess <Princess.Porter@coffeecounty-ga.gov> wrote:

Attached please find the response to your open records request dated March 15, 2021.

Concerning the video you have requested, our IT person has provided the flash drive. However, due to the amount of footage we are having issues transferring to a portable medium. Our IT person is working diligently to get this issue fixed. We will notify you when we have the flash ready for you to view.

Thank you,

Princess Zachery

From: Tabitha Paulk <cjstowing@windstream.net>
Sent: Tuesday, March 16, 2021 9:04 AM
To: Porter, Princess <Princess.Porter@coffeecounty-ga.gov>
Subject: Re: Open records

I resent my previous email because it said what I wanted.

1. Last 10 open records request for video/audio and breakdown of cost.
2. What company that does the video or IT request for the County?
3. Breakdown bill for my charges of the video/audio for Misty Hampton.

Sent from my iPhone

On Mar 16, 2021, at 8:40 AM, Porter, Princess <Princess.Porter@coffeecounty-ga.gov> wrote:

Please explain exactly what information you are requesting in regard to audio. Are you speaking only in regards to what our IT company produces for us?

From: Tabitha Paulk <cjstowing@windstream.net>
Sent: Tuesday, March 16, 2021 8:32 AM
To: Porter, Princess <Princess.Porter@coffeecounty-ga.gov>
Subject: Fwd: Open records

Sent from my iPhone

Begin forwarded message:

From: "Porter, Princess" <Princess.Porter@coffeecounty-ga.gov>
Date: March 15, 2021 at 4:26:30 PM EDT
To: Tabitha Paulk <cjstowing@windstream.net>

Cc: openrecordsrequest <openrecordsrequest@coffeecounty-ga.gov>

Subject: RE: Open records

Please find attached the information regarding the production of the video file you have requested.

Would you still like to receive a copy of the video?

Also, in regard to your New Open Records request concerning:

1. the past 10 people that have requested audio and the breakdown cost paid.

I will forward this request to our records custodian for processing.

Princess Zachery

-----Original Message-----

From: Tabitha Paulk <cjstowing@windstream.net>

Sent: Monday, March 15, 2021 3:34 PM

To: Porter, Princess <Princess.Porter@coffeecounty-ga.gov>

Subject: Open records

Good afternoon,

Per our conversation on today please send a break down on the charges for the audio information from IT.

Also I'm asking for an open records request on the past 10 people that have requested audio and the breakdown cost paid.

Thanks

Sent from my iPhone